

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

REPORT AND RECOMMENDATION ON  
KELVIN FRYE'S MOTION UNDER 28 U.S.C. § 2255  
[Docket No. 1183]

December 7, 2018

BOAL, M.J.

Kelvin Frye, who is currently serving a twenty-five year sentence in a federal correctional facility, filed a pro se motion under 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence (“Motion”). Docket No. 1183. For the following reasons, this Court recommends that the District Judge assigned to this case deny the Motion.

## I. BACKGROUND

#### A. The Conspiracy

A grand jury indicted Frye and fifteen others with conspiring to distribute, and to possess with intent to distribute, cocaine and heroin in violation of 21 U.S.C. §§ 846, 841(a)(1) and 841(b)(1)(B). Docket No. 76. The conspiracy, of which Frye and co-defendant Russell Rose were purportedly leaders, was alleged to have lasted from approximately March 2008 until November 2010. Id. at 2; see *United States v. Rose*, 802 F.3d 114, 116 (1st Cir. 2015).

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After consideration of objections thereto (Docket No. 1267),  
Report and Recommendation accepted and adopted.

SKM Gorton, USDJ 6/13/19